



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/315,973	05/21/1999	SHASHANK MERCHANT	50100-783	7187

20277 7590 04/26/2005

MCDERMOTT WILL & EMERY LLP  
600 13TH STREET, N.W.  
WASHINGTON, DC 20005-3096

EXAMINER
----------

LY, ANH VU H

ART UNIT	PAPER NUMBER
----------	--------------

2667

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 09/315,973	<b>Applicant(s)</b> MERCHANT ET AL.	
	<b>Examiner</b> Anh-Vu H Ly	<b>Art Unit</b> 2667	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

Continuation Sheet 11: Applicant asserts on page 3 that Murthy discloses that each port controller is allocated 32 Kbytes of shared memory for received packets and 64 Kbytes of shared memory for transmitted packets. Later, applicant then argues that accordingly, the reference makes it clear that specific packet buffers are not allocated to particular port controllers. Examiner respectfully disagrees. First of all, applicant agrees that 32 Kbytes of shared memory is allocated to each port controller then later applicant states that the packet buffers are not allocated to port controller. It is unclear what applicant is arguing. Eventhough, the packet buffers are resided in the packet buffer pool, a portion of that packet buffer pool or a number of packet buffers is allocated to each of the port controllers. Therefore, each port controller must know how much data it is receiving before storing the received data in the allocated shared memory. If the received data exceeds the allocated shared memory, some other arrangements must be made to accommodate the extra traffic. Otherwise the received data are stored in the allocated 32 Kbytes of shared memory in the packet buffer pool. Applicant further argues on page 3 that the packet itself is not moved or copied, it is only referred to via the packet pointer 50. Examiner respectfully disagrees. First of all, applicant's arguments are not directed to the claimed invention. Secondly, in a network switch, once the data received at the input port, the header is examined for determining the destination information, the data, itself, is stored in the buffers, while the information regarding the locations of the stored data is stored in the descriptor or pointer queue. Applicant further argues on page 4 that the reference specifically indicates that the port controllers do not queue data blocks representing the data packets received by the corresponding ports, as claim 1 requires. Instead, they place received packets into available packet buffers. Examiner respectfully disagrees. First of all, placing and queueing received packets are equivalent. Furthermore, applicant argues on page 4 that it is noted that one skilled in the art of data communications would realized that the pack buffers of Murthy are not FIFO buffers. Therefore, the port controllers are not able to perform queueing. Examiner respectfully disagrees. Again, applicant's arguments are not directed to the claimed invention. Secondly, examiner is unclear how the port controllers are not able to perform queueing if the packet buffers of Murthy are not FIFO buffers. FIFO buffers are first in first out buffers for storing data therefore it is unclear why the port controllers are not able to perform queueing the received data in the FIFO buffers.



CHI PHAM  
SUPERVISORY PATENT EXAMINEE  
TECHNOLOGY CENTER 2007

4/21/05